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Supreme Court of the United States.

OCTOBER TERM, 1970.

No. 602.

ARNOLD TOURS, INC., ET AL.,
Petitioners,
v.
WILLIAM B. CAMP ET AL.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT.

BRIEF OF SOUTH SHORE NATIONAL BANK IN OPPOSITION.

Question Presented.

Whether petitioners, alleging only economic injury resulting from competition, have standing to challenge acts of South Shore National Bank, respondent, in the absence of any specific statute protecting petitioners from competition or establishing a zone of interest for the protection or regulation of petitioners.

Statement.

On March 23, 1970, the Supreme Court granted petitioners' petition for a writ of certiorari from an earlier

decision of the United States Court of Appeals for the First Circuit, vacated the judgment of that Court, and remanded the case to that Court for further consideration in light of *Association of Data Processing Service Organizations, Inc.* v. *Camp*, 397 U.S. 150 (1970), hereinafter *Data Processing*, and *Barlow* v. *Collins*, 397 U.S. 159 (1970).

After rehearing and further consideration, on June 1, 1970, the Court of Appeals reaffirmed the dismissal of the complaint,[1] citing the majority opinion of this Court in *Data Processing* and quoted this Court on the issue of standing as follows:

> "'The 'legal interest' test goes to the merits. The question of standing is different. It concerns, apart from the 'case' or 'controversy' test, the question whether the interest sought to be protected by the complainant is arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question'" (397 U.S. at 153).

The Court of Appeals emphasized and properly applied the distinction in *Data Processing* between definitions and questions relating to reviewability and those relating to standing.

The petitioners bring this petition for a writ of certiorari to this Court from the judgment of the United States Court of Appeals for the First Circuit.

Argument.

For whatever reason, the petitioners appear to continue to be confused between questions relating to reviewability and questions relating to standing.

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[1] Petition, Appendix "E," pp. 31-34.

Much of the petitioners' brief is a mixture of questions of reviewability and questions of standing. The definitions of standing by the majority of the Supreme Court in *Data Processing,* as reaffirmed in the decision of the United States Court of Appeals for the First Circuit on June 1, 1970, seem clear. The petitioners attempt to take the language of the dissenting opinion in *Data Processing* and, with the addition of questions relating to reviewability, emerge with a conclusion that fails to agree with the position of the majority of this Court in *Data Processing.*

Conclusion.

The petitioners clearly lack standing under principles laid down in *Data Processing.* The Court of Appeals correctly followed those principles. There is no conflict between its decision and any decision of this Court or any other Court of Appeals. The petition for a writ of certiorari should be denied.

Respectfully submitted,

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